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DOCKETS

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

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In the Matter of

Supplemental Advance Notice of Proposed
Rulemaking

Computer Reservations System (CRS) Regulations
(14 CFR Part 255)

Dockets Nos. OST-97-2881 - 152
OST-97-3014 - 22
OST-98-4775 - 67

COMMENTS OF OAG WORLDWIDE

Communications concerning this document should be addressed to:

Joanne W. Young
David M. Kirstein
BAKER & HOSTETLER LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 861-1532

Counsel for OAG Worldwide

September 22, 2000

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U.S. DEPARTMENT OF TRANSPORTATION
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| Supplemental Advance Notice of Proposed |) | Dockets Nos. OST-97-2881 |
| Rulemaking |) | OST-97-3041 |
| |) | OST-98-4775 |
| Computer Reservations System (CRS) Regulations |) | |
| (14 CFR Part 255) |) | |
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COMMENTS OF OAG WORLDWIDE

Reed Elsevier Inc. d/b/a OAG Worldwide (“OAG”) submits the following comments in response to the Department’s Supplemental Notice of Proposed Rulemaking (“SANPRM”) in the above-referenced dockets requesting comments on the continuing need for Computer Reservation System (“CRS”) regulations in light of reduced airline ownership of these systems, and whether the Department should consider applying CRS display rules to Internet consumer booking sites for the distribution of airline services. For the reasons discussed below, OAG believes the current CRS regulations should continue to apply to CRS vendors as these booking engines supply the platform for virtually all tickets purchased from both traditional “brick and mortar” travel agents contacted in person or by phone, and multi-carrier Internet travel services. However, OAG generally opposes extending the CRS rules to consumer Internet travel services

(booking sites). OAG specifically opposes any regulation of displays or disclosure requirements to customized displays created to reflect the particular travel preference of a business or individual customer.

OAG's Internet Services are Customer Driven Products

OAG, a member of the Reed Elsevier plc Group,¹ is a publisher of print and electronic airline schedule and other travel information products, including information tailored for the business travel market and for frequent travelers with complex itineraries. For more than seventy years, OAG has maintained the world's largest independent database of airline information, and has built a valuable brand for its products by providing consumers with comprehensive and independent travel information. Presently, OAG is not a "ticket agent" as defined by the U.S. Transportation Code although it may become a ticket agent in the future, should its' users require booking services in addition to OAG's current travel planning services.

OAG's existing and developmental online information and travel services include the OAG.com Web site ("OAG.com") and OAG's wireless Web applications ("OAG Mobile"). OAG's services are customized to the particular needs of its corporate and individual customers.

¹ Reed Elsevier Inc. d/b/a TravelNet, formerly a third-party provider of corporate booking tool software, submitted comments in response to the Department's initial Advance Notice of Proposed Rulemaking. See OST-97-2881-25, Dec. 9, 1997. In those comments, TravelNet noted CRS vendors were unfairly tilting the competitive playing field in favor of their own ancillary products by restricting the availability of structured data to competitive corporate booking services. Subsequently the CRSs made this data available. TravelNet was discontinued in 1998.

OAG.com offers direct access to OAG flight information, the most up-to-date and comprehensive web-enabled flight schedule database in the world. It also supports OAG Mobile and the OAG E-Notification service, which provides up-to-date information on the status of a booked flight via e-mail, mobile phone or pager regardless of the service used to book the flight. OAG Mobile offers wireless access to up-to-date travel information via a personal digital assistant ("PDA") and web-enabled telephone (wireless application protocol, or "WAP") devices. Using the mobile device of their choice, subscribers can check flight schedules from the OAG travel information database that includes direct and connecting flights from over 800 airlines and make use of the OAG E-Notification service. OAG Mobile enables subscribers to quickly identify arrival and departure times and connecting flights to match their travel plans. In the future, it will also offer consumers the convenience of being able to easily and quickly change travel plans en route according to personal travel needs and preferences.

For its government and corporate travel solutions customers, OAG offers a range of traveler preference accommodation, travel policy compliance, travel billing management and other products on a subscription basis. In the near future, in response to customer demands and in competition with numerous other travel information providers, OAG plans to offer online booking and order fulfillment functionality. As discussed below, in its provision of such services OAG would be acting as a CRS subscriber requiring access to at least one neutral integrated display.

The CRS Rules Should not Apply to Independent Internet Travel Agencies

Part 255 of the Department's Economic Regulations defines a CRS as a "system" provided by an air carrier or its affiliate to ticket agents that provides information on schedules and fares of other carriers combined with the ability to make reservations and issues tickets. The rules do not apply to any computer displays made available directly to consumers. In 1992, prior to the rapid growth of the Internet as a direct source of airlines booking information for consumers, the Department decided not to issue a rule requiring travel agencies to offer neutral displays or even provide consumers with notice of any information biases. *See* 57 Fed. Reg. 43780, 43809-10 (Sept. 22, 1992).

OAG believes, in keeping with the Department's prior position, that the Department's CRS display regulations should not be extended beyond their current scope to apply to Internet agencies. Adopting a neutral display requirement for Internet travel agencies could impose an undue burden and stifle innovation, particularly when the information bias in question has no potential to harm consumers. For example, some web-based services like Priceline.com are purely price based and make no claims to providing complete or neutral information. A site like Hotwire.com is price and carrier-based, but makes clear it does not include all airline services marketed. Historically, ticket agents have acted as agents of the airline service provider. While online agencies technically remain the agent of the airlines, the scope of the market and the competitive market environment forces them to develop products that enhance customer satisfaction. Unnecessary restrictions will harm innovation and competition.

However, OAG believes that to protect competition in air services and consumers an Internet travel agency owned or affiliated with one or more airlines that is the functional equivalent of a CRS, i.e. provides schedule and fare information and booking capability on multiple carriers, should be required to advise consumers on the home page whether the site conforms to the Department's display bias rules and state the nature of any bias. This is necessary because these agencies, created to channel business away from independent travel agents to the airline owned systems, have the same incentives as CRSs owned or affiliated with airlines to provide biased information that benefits the owner carriers.

In the case of OAG and other independent service providers, any special presentation of the information provided would be responsive to customer input, and there would be no justification for requiring compliance with the neutral display rule applicable to CRSs. In this regard, OAG notes that traditional non-airline owned travel agencies have always had the right to provide customers with customized information to meet specific needs and there is no evidence to support a change in this practice. If the Department concludes in this proceeding that there should be any regulation of any online travel agents providing travel information displays directly to consumers, such regulations should be limited to a disclosure requirement discussed above. Moreover, OAG submits that services providing customized preferences requested by the customer should be exempt from any general disclosure requirement.

As applied to CRS vendors, the current CRS rules, and the neutral display, nondiscrimination and mandatory participation rules in particular, continue to be important for

the preservation of competition in the airline and travel distribution services markets. However, the factors that in 1984 led the Civil Aeronautics Board to develop rules governing the operations of airline-affiliated CRSs simply are not implicated by the Internet services OAG and other independent service providers offer, or may offer in the future, to consumers. Before the CRS rules were issued, airlines with control over CRSs were able to use that control to bias information given to consumers, in order to obtain more bookings on their own flights and prejudice airline competition by manipulating the price or level of service their CRS affiliates offered to other participating airlines. *See* 62 FR 47606, 47607-08 (Sept. 10, 1997). Today, as noted in the SANPRM, marketing or technical agreements between a CRS vendor and one or more airlines, could still create incentives to bias displays or to offer special discounts that would harm competition in the air transport market, even when there is no direct airline ownership.

In contrast to CRSs, Internet travel agencies not owned or affiliated with airlines are primarily consumer oriented and less susceptible to airline control that might result in the sort of information biasing or price and service manipulation that made the CRS rules necessary.² Since OAG and other independent service providers offer information directly to consumers rather than to travel agents, there is no need to require them to comply with the Department's CRS rules.

² To the extent that certain Internet travel agencies might engage in anticompetitive conduct, these particular problems can be handled through the Department's power to investigate unfair practices, a Department of Justice antitrust investigation or private antitrust litigation.

The information is being used directly by consumers who may have requested that it be customized according to their own preferences. The Internet provides a nearly perfect competitive environment, making numerous sources of airline travel and booking services readily available to consumers. The ability of consumers to easily select among competing electronic travel service providers minimizes the need for the Department to adopt new regulations for such providers. As airlines continue to reduce commissions paid to travel agents, there is likely to be a continuation of the trend of consumers paying for travel services that meet their needs rather than the needs of airlines, and the Internet is a particularly efficient means of providing such services.

As discussed in the Bear, Stearns report, "Point, Click, Trip," the Department filed in these proceedings, consumers have a wide and rapidly expanding range of competitive Internet travel agencies from which to choose. Applying the Department's current CRS rules to these agencies, without clear evidence of competition problems, would actually harm competition. It would also likely prove administratively impractical.

The Department Should Maintain the Neutral Display Rule for CRSs

OAG believes the Department must continue to require CRSs owned by or affiliated with airlines to offer at least one unbiased display. CRSs continue to enjoy market power, and as the Department notes in its SANPRM, even the planned multi-airline owned ORBITZ travel website, which may closely resemble a CRS, will have to use a CRS as its booking engine. To the extent OAG does in the future offer booking and order fulfillment services to its customers, it

may rely, in whole or in part, on a CRS for fare and seat availability information, and to execute orders with airlines. As such, OAG would, like a traditional ticket agent subscriber, require access to at least one neutral integrated display.

OAG's current and planned Internet travel services are predicated on OAG's ability to make use of comprehensive and neutral travel information in order to deliver information and services which may then be customized according to customer preferences. To the extent the Department might conclude that a CRS vendor not under airline ownership is no longer bound by CRS rules, it should consider requiring travel agents to obtain a guarantee from their CRS vendors that at least one display conforms to the DOT rules. This would ensure the CRS would maintain a neutral display.

Conclusion

OAG appreciates the Department's cautious approach in deliberating whether to extend its existing CRS regulations to new travel services offered on the Internet and the Department's invitation for additional comments on the issue. As discussed above OAG believes retaining the current CRS rules is important to maintaining competition for air service. OAG also believes, based on the current state of competition on the Internet and electronic travel service market, that it would be inappropriate to impose regulation over the content of online displays used in consumer products. As discussed above, for multi-carrier owned Internet travel agencies, the

Comments of OAG Worldwide

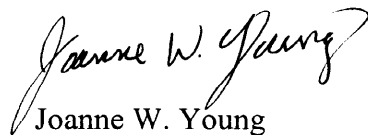
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Department should require a clear disclosure if the display does not conform to the CRS regulations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joanne W. Young". The signature is fluid and cursive, with the first name "Joanne" being more prominent.

Joanne W. Young

David M. Kirstein

BAKER & HOSTETLER LLP

1050 Connecticut Avenue, N.W.

Suite 1100

Washington, D.C. 20036

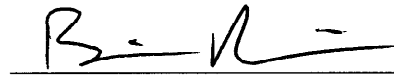
(202) 861-1532

Counsel for OAG Worldwide

Dated: September 22, 2000

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of September, 2000, I caused a true and correct copy of the foregoing Comments of OAG Worldwide to be served by first-class U.S. mail, postage prepaid, upon the parties listed on the following Service List.



Brice D. Prince

SERVICE LIST

Jeffrey A. Manley
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

Thomas J. Whalen
Condon & Forsyth
1016 16th Street, N.W.
Suite 700
Washington, D.C. 20036

James V. Dick
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Michael F. Goldman
Silverberg Goldman and Bikoff
1101 30th Street, N.W.
Suite 120
Washington, D.C. 20007

Bruce E. Cunningham
Managing Director
Bauer & Cunningham, Inc.
Two Moonvine
The Woodlands, TX 77380-1331

Francesco Gallo
Comptroller, North America
Alitalia
666 Fifth Avenue
New York, NY 10103-0030

Aaron A. Goerlich
Boros & Garofalo
1201 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036-2605

John Kloster
Executive Director
Midwest Agents Selling Travel
15 Spinning Wheel Road
Suite 336
Hinsdale, IL 60521

Paul M. Ruden
Senior Vice President
American Society of Travel
Agents, Inc.
1101 King Street
Alexandria, VA 22314-9244

George U. Carneal
Hogan & Hartson
Columbia Square
555 13th Street, N.W.
Washington, D.C. 20004-1109

Mark Pestronk
Law Offices of
Mark Pestronk, P.C.
4041 University Drive, Suite 450
Fairfax, VA 22030

Arthur J. Molins
General Counsel North America
Lufthansa German Airlines
1640 Hempstead Turnpike
East Meadow, NY 11554

Judith M. Trent
Global Aviation Associates, Ltd.
1800 K Street, N.W.
Suite 1104
Washington, D.C. 20006

Nathaniel P. Breed, Jr.
Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037

Robert W. Kneisley
Associate General Counsel
Southwest Airlines, Inc.
1250 Eye Street, N.W.
Suite 1110
Washington, D.C. 20005

Jack Foley
Executive Vice President
-- Sales & Marketing
Aer Lingus Limited
538 Broad Hollow Road
Melville, NY 11747

Thomas P. Cooper, Esq.
Vice President - Legal Affairs
Gulfstream International Airlines,
Inc.
P.O. Box 660777
Miami Springs, FL 33266

Paul V. Mifsud
Vice President -- Government &
Legal Affairs, U. S.
KLM Royal Dutch Airlines
1201 Pennsylvania Avenue N.W.
Suite 500
Washington, D.C. 20004

David Lambert
President
Preview Travel Online, Inc.
747 Front Street
San Francisco, CA 94111

Theodore Knappen
Government Affairs Representative
Greyhound Lines, Inc.
1001 G Street, N.W.
Washington, D.C. 20001-4545

John E. Gillick
Winthrop, Stimson, Putnam &
Roberts
1133 Connecticut Ave., N.W.
Suite 1200
Washington, D.C. 20036

Audrey H. Rubin
Vice President & General Counsel
Apollo Travel Services Partnership
2550 W. Golf Road
Suite 900
Rolling Meadows, IL 60008

Douglas L. Abramson
Vice President, General
Counsel and Secretary
Worldspan, L.P.
300 Galleria Parkway
Atlanta, GA 30339

Roger W. Fones, Section Chief
Transportation, Energy &
Agriculture Section
Antitrust Division
U.S. Department of Justice
325 7th Street, N.W.
Suite 500
Washington, D.C. 20530

Donna Kooperstein
Assistant Section Chief
Antitrust Division
Department of Justice
325 7th Street, N.W.
Suite 500
Washington, D.C. 20530

John R. Read
Antitrust Division
Department of Justice
325 7th Street, N.W.
Suite 500
Washington, D.C. 20530

Carolyn F. Corwin
Covington & Burling
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

Elliott M. Seiden
Vice President, Law and
Government Affairs
Northwest Airlines, Inc.
901 15th Street, N.W.
Suite 310
Washington, D.C. 20005

Mr. Richard Stirland
Director General
Association of Asia Pacific Airlines
5/F Corporate Business Centre
151 Paseo de Roxas
1226 Makati City, Philippines

Brian T. Hunt
General Counsel
American Trans Air, Inc.
P.O. Box 51609
Indianapolis Int'l Airport
Indianapolis, IN 46251

Lauraday Kelley
President
Association of Retail Travel
Agents
845 Sir Thomas Court
Suite 3
Harrisburg, PA 17109

Paul Stephen Dempsey
Vice Chairman & Director
Frontier Airlines, Inc.
1900 Olive St.
Denver, CO. 80220

Arthur T. Voss
Vice President and General
Counsel
Frontier Airlines, Inc.
12015 East 46th Ave.
Denver, CO 80239

Linda M. Mitchell
Vice President & General Counsel
America West Airlines, Inc.
400 E. Sky Harbor Boulevard
Phoenix, AZ 85034

R. Bruce Keiner
Crowell & Moring
1001 Pennsylvania Ave., N.W.
Suite 1100
Washington, D.C. 20004

Jonathan B. Hill
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave., N.W.
Suite 800
Washington, D.C. 20036-6802

Fathy M. Attia
Egypt Air
720 Fifth Avenue
New York, NY 10019

William E. O'Brian, Jr.
Ross, Dixon & Masback, L.L.P.
601 Pennsylvania Ave., N.W.
North Building
Washington, D.C. 20004

James R. Weiss
Preston Gates Ellis & Rouvelas
Meeds LLP
1735 New York Avenue, N.W.
Suite 500
Washington, D.C. 20006

Edward P. Faberman,
Executive Director
Air Carrier Association of America
1500 K Street, N.W.
Suite 250
Washington, D.C. 20005-1714

Thomas Ray
Office of the General Counsel
American Express
World Financial Center
New York, NY 10285-4900

Donald L. Pevsner
1765 East Riviera Drive
Merritt Island, Florida 32952

Sefik Yuksel, General Manager
Trade & Social Affairs
Association of European Airlines
350 Avenue Louise
Brussels, Belgium